RELATIONS WITH CANADA—ANNEXATION.

SPEECH

OF

HON. JOHN SHERMAN,

OF OHIO,

DELIVERED IN THE

SENATE OF THE UNITED STATES,

TUESDAY, SEPTEMBER 18, 1888.

WASHINGTON.
1888.

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Tuesday, September 18, 1888.

The Senate having under consideration the resolution submitted by Mr. SHERMAN September 17, 1888, as follows:

Resolved, That the Committee on Foreign Relations be directed to inquire into and report at the next session of Congress the state of the relations of the United States with Great Britain and the Dominion of Canada, with such measures as are expedient to promote friendly commercial and political intercourse between these countries and the United States, and for that purpose have leave to sit during the recess of Congress.

Mr. SHERMAN said:

Mr. PRESIDENT: The recent message of the President recommending a line of retaliation against the Dominion of Canada involves the consideration of our relations with that country in a far more important and comprehensive way than Congress has ever before been called upon to give. The recent treaty rejected by the Senate related to a single subject affecting alone our treaty rights on her northeastern coast. The act of retaliation of 1887 was confined to the same subject-matter. This message, however, treats of matters extending across the continent, affecting commercial relations with every State and Territory on our northern boundary. Under these circumstances I feel it is my duty to present my views of all these cognate subjects, and in doing so I feel bound to discard as far as possible all political controversy, for in dealing with foreign relations, and especially those with our nearest neighbor, we should think only of our country and not of our party.

The problem before us would be much easier to solve if we could treat alone with Canada as an independent power, but this in form is impossible, though by the wise and generous policy of Great Britain the government of Canada has been practically committed to the Canadian Parliament. Our negotiations have been and must be with Great Britain, though our differences are with her dependencies, the Dominion of Canada and the Province of Newfoundland, which participated in the negotiation of the late treaty, and their consent to the treaty was necessary to its ratification. It can not be doubted that if the English Government was alone to be consulted, it would readily, in conformity to its avowed principles and modern practice, concede to American fishermen the right to enter its ports and harbors to purchase supplies and

transship commodities. But, to use the language of the President, the Canadian authorities and officers deny us these privileges and have subjected our citizens engaged in fishing enterprises in waters adjacent to their northeastern shore to numerous vexatious interferences and annoyances, have seized and sold their vessels upon slight pretexts, and have otherwise treated them in a rude, harsh, and oppressive manner. He further says:

> This conduct has been justified by Great Britain and Canada, by the claim that the treaty of 1818 permitted it, and upon the ground that it was necessary to the proper protection of Canadian interests. We deny that treaty agreements justify these acts, and we further maintain that, aside from any treaty restraints, of disputed interpretation, the relative positions of the United States and Canada as near neighbors, the growth of our joint commerce, the development and prosperity of both countries, which amicable relations surely guaranty, and above all, the liberality always extended by the United States to the people of Canada, furnished motives for kindness and consideration higher and better than treaty covenants.

Thus far I agree with the President. Not only was a harsh and narrow construction given to the treaty of 1818, but our fishing vessels were denied the benefit of the liberal and enlightened ideas and measures adopted in later years by commercial nations, and, especially, by the United States and Great Britain, of throwing wide open their ports and harbors to all vessels of friendly nations for the exchange of foreign commodities, subject only to such duties as by the public policy of each nation were deemed necessary, and without discrimination of country or vessels or mode of transportation.

Our policy has been especially favorable to Canada, as the duty on the articles she exported to the United States were exceptionally low. Her fresh fish were admitted free of duty into our country through our ports, harbors, and adjacent waters. This public policy was adopted not by treaty only, but by friendly laws, in harmony with the general good will of our people toward a kindred race in language, institutions, and origin, having a common boundary of 4,000 miles, and with whom it is our desire and hope to establish more intimate relations, and, in due time, a common union and destiny.

The President complains that on the part of Canada there was an entire want of reciprocity, that—

> While keenly sensitive to all that was exasperating in the condition, and by no means indisposed to support the just complaints of our injured citizens, I still deemed it my duty for the preservation of important American interests which were directly involved, and in view of all the details of the situation, to attempt by negotiation to remedy existing wrongs and to finally terminate, by a fair and just treaty, these ever-recurring causes of difficulty.

I do not question the power of the President to negotiate a treaty subject to the advice and approval of the Senate, but I do deny that the treaty he negotiated would have remedied existing wrongs or terminated the causes of difficulty, or was in any sense a fair and just treaty. The more I have reflected upon it the more I am convinced that it was a one-sided treaty, that it would not have lessened but rather have increased the causes of irritation, and such, I believe, is the general sentiment of the people of the United States, and especially of those who are nearest in interest and in locality to the scene of the wrongs we complain of.

The exclusion of our fishermen by that treaty from the extensive waters and bays adjacent to the fishing grounds, on which they have the same rights as Canadian fishermen, admitted to be ours both by treaty and international law, should never have been conceded except for concessions of commercial rights of equal importance. When we look in the treaty for such concessions we find such trivial provisions as that

our fishing vessels need not report to a custom-house when putting into the bays and harbors for shelter or repairing damages, or for purchasing wood or obtaining water. But even this concession prohibits our vessels remaining more than twenty-four hours. They were not to be liable for compulsory pilotage and are relieved from certain dues which are not enforced against any commercial vessel. In case of being driven into any bay or port under stress of weather they could unload when such unloading is made necessary as incidental to repairs, may replenish provisions or supplies damaged or lost by disaster. In certain cases they could purchase supplies for the homeward voyage. They were promised that the penalties for violating the customs laws should not exceed the value of the ship and its cargo, that the proceedings should be as inexpensive as practicable, that reasonable bail should be accepted, and the usual incidents of a fair and speedy trial are promised. These provisions are not concessions. All these are rights which an Anglo-Saxon believes are inherent to man, as life, liberty, and property, rights which we have demanded from Algiers and Tripoli, which we have exacted from China and Japan when they opened their doors to European civilization, rights which Great Britain would not allow to be denied to Englishmen by any nation of the world. Any negotiation for such rights is a reproach to the framers of the treaty. The very fact of their concession by Canada and acceptance by us is an admission that they had been denied by the Canadian authorities, and that we had to buy these common rights by extending the local jurisdiction of Canada over vast bays where our fishermen had plied their vocation for more than one hundred years.

Nor does the fifteenth article help the treaty, for that is only an offer that, if we will repeal our duties on fish oil, whale oil, seal oil, and fish of all kinds (except fish preserved in oil), as well as on the usual and necessary casks, barrels, kegs, cans, and other coverings of the products named, whether these duties are necessary for revenue or for protection, then, and only in that event, they will allow our vessels to enter their ports for—

1. The purchase of provisions, bait, ice, seines, lines, and all other supplies and outfits.
2 Transshipment of catch, for transport by any means of conveyance.
3. Shipping of crews.

But even this article does not allow our fishing vessels to have any rights except those specially specified in the three clauses named. All and more of the rights proposed by this article have been freely granted and are enjoyed by every British and Canadian vessel, of whatever kind, whenever its owner wishes to enter the ports, harbors, or bays of the United States.

Why are not similar commercial rights conceded to our fishing vessels? Why should Canada refuse to allow American fishing vessels, engaged in a lawful and hazardous business on adjacent banks, to enter their ports and ship their catch over a railroad chiefly of American ownership to the American market? The denial of this privilege, which costs Canada nothing, has always seemed to me so inhospitable, unchristian, and selfish that I wonder that it has not long since led to violence and retaliation. The only answer is that the fishing banks lie nearer to Canadian shores than our own, and that they have therefore an advantage in shipping their catch that we do not enjoy; and yet, strange to say, we allow them to ship their fish free of duty into our market and thus take advantage of their own wrong. The President, as I will show, has the power under the act of 1887, by a simple

order, to change all this by stopping for a time the importation of fish and other goods from ports from which our fishermen are excluded, and this a one would in all probability have secured justice, hospitality, and equal commercial privileges to our fishermen; but he chose to negotiate, and the result was a project of a treaty which secures none of these except upon a surrender of the taxing power of the Government.

The President complains that the treaty was rejected without any apparent disposition on the part of the Senate to alter or amend it. The only amendment that would make the treaty tolerable was one to stipulate for the entry of our fishing vessels into Canadian ports with the same commercial privileges that are now enjoyed by the British and Canadian vessels in our ports, but it was said in the committee and concurred in by all that such an amendment would not be accepted by the other contracting parties, that to adopt this amendment would be to defeat the treaty in an indirect way and be a concession of the delimitation of the bays mentioned, that it would be better for the United States, and the Administration as well, to reject the treaty entire, leaving the executive authorities to negotiate anew, or pursue the remedy provided by law, as deemed best for the public interest. These considerations induced me to withhold the amendment suggested, for it was perfectly well known that the treaty was rejected because it extended the exclusive waters of Canada without securing reciprocal advantages, and aggravated rather than lessened existing difficulties.

The President charges that it was the evident intention of the Senate, not wanting expression, that no negotiation should at present be concluded touching the matter at issue; in other words, that the Senate was governed by political motives. This is founded upon a single clause of the report of the committee, in which it is said:

> Congress came to the conclusion that the period of negotiation and unavailing remonstrance had passed, and with almost absolute unanimity and without any party division enacted the act of March 3, 1887.

This was the statement of a fact absolutely true, and is not in any sense a denial of the right of the President, under the Constitution and by and with the advice and consent of the Senate, to make treaties. That Congress did expect him to pursue the course marked out by the law which he had approved is undeniably true, but it is equally true that he might, before resorting to the law, continue negotiations, and the same right was open to him after the Senate had expressed its disapproval of the treaty, and yet, in the face of this, the President says the Senate has declined.

> The co-operation necessary for the adjustment of the long-standing national differences with which we have to deal, by methods of conference and agreement.

What were these differences? None were suggested by the treaty he sent us except those growing out of the treaty of 1818, which related alone to our fishery rights. These were not settled by the treaty except by new concessions and by a surrender of the taxing power. We believe they could have been easily and quickly settled by his executing the law of March 3, 1887. He seems to be unwilling to execute that law, which undoubtedly expressed the deliberate judgment of Congress without party division, and now that the Senate has declined to approve the treaty, he neglects the execution of the law, imputes to the Senate a declaration that it has not made, seeks to change the issue, sets out other causes of complaint, and invokes new and extraordinary powers to punish Canada for levying discriminating duties in the use of her canals.

A purely executive officer, charged with the execution of a law, places his opinion and his will above the law, declines to renew the negotiations, neglects to carry out the plan of retaliation provided by law, and says he will "therefore turn to the contemplation of a plan of retaliation" entirely different and distinct from the one provided by the law, and asks Congress to grant him the power of suspending a commerce stated by him to have amounted to $270,000,000 during the last six years. It is no wonder that this sudden change of base excites surprise in both countries and is regarded as a mere political movement to divert attention from the real issue, and, for party purposes, to broaden a local controversy into one that may involve the peace of two great countries.

This brings me directly to the consideration of the method of retaliation provided by existing law and that recommended by the President. The act of March 3, 1887, provides:

> That whenever the President of the United States shall be satisfied that American fishing vessels or American fishermen, visiting or being in the waters or at any ports or places of the British dominions of North America, are or then lately have been denied or abridged in the enjoyment of any rights secured to them by treaty or law, or are then or lately have [been] unjustly vexed or harassed in the enjoyment of such rights, or subjected to unreasonable restrictions, regulations, or requirements in respect of such rights, it shall be the duty of the President of the United States, in his discretion, by proclamation to that effect, to deny vessels, their masters and crews of the British dominions of North America, any entrance into the waters, ports, or places of, or within the United States, and also, to deny entry into any port or place of the United States of fresh fish or salt fish or any other product of said dominions, or other goods coming from said dominions to the United States.

That all the injuries to our countrymen recited in the act of Congress have been committed is admitted and strongly stated by the President in his recent message. The ground for retaliation is specifically pointed out by him, and the proper measure of retaliation was clearly and distinctly defined by Congress and is fully justified by the facts stated in the message.

Can there be a doubt that, if the President had promptly, after the passage of this law, exercised his powers, or even now, after the failure of his negotiation, should exercise either of the powers given to him by the law—that is to prevent the entrance of Canadian vessels into our ports or to deny entry into our ports of fish or other goods, the product of said Dominion—he would have secured to our countrymen the privileges referred to? And this would have been a just and proper measure of retaliation. He would have inflicted upon Canadian vessels the precise injury to the same extent that has been inflicted upon American fishermen.

But, not content with this, he proposes a measure of retaliation that will inflict great injury upon our own citizens, in no way connected with the fishery difficulties; will arrest a vast commerce beneficial to both countries, which has been conducted in peace and safety and without controversy for years, which furnishes occupation for our railroads and other modes of transportation, and to a vast number of our people; which causes no loss to our revenue; which will create damage and irritation along the whole length of our border, from the Gulf of St. Lawrence to the Straits of Fuca. It will, without furnishing a remedy to the fishermen employed upon our northeastern fisheries, inflict an injury to all engaged in commerce on the upper lakes, to several lines of railroads through New England States, will check the construction of railroads to and from the friendly province of Manitoba, probably lead to the suspension and breaking off of the expor-

tation of coal from Ohio and the West to Canada, and the shipment of wheat from the Red River country to Minneapolis, to be ground into flour for re-export or home consumption. In other words, it will suspend or embarrass a commerce of exports and imports aggregating nearly $100,000,000 a year. A proposition like this, made without warning in the midst of a popular election, with all the air and surroundings of a sensation, is the response to an earnest demand made by the fishermen of New England that they should be secured in the enjoyment of what they believe to be their unquestionable rights.

On what ground is this recommendation made? If to secure the rights of our citizens it is necessary to make these sacrifices, a patriotic people will not for a moment hesitate; but if this is a mere expression of resentment because the Senate has not approved the treaty, or is a mere bluff to attract popular feeling in aid of a political canvass, in no way necessary to secure the object sought, the Senate should promptly deny the power asked for, and appeal to the sober judgment of our people to support them in resisting measures so dangerous to the peace and prosperity of the country. The broad question is presented whether it is wise to confer this power on the President of the United States under existing circumstances, and this involves the consideration of our commercial relations with Canada, their extent and importance both to Canada and the United States, and especially of the articles in the treaty of Washington of 1871 and the subsisting laws to carry them into effect.

Prior to the treaty of Washington there were many subjects of dispute between the United States and Great Britain in respect to Canada. That treaty was negotiated with the utmost care by eminent representatives of Great Britain and the United States, and was ratified on the 17th of June, 1871. It was a broad, comprehensive, liberal, and just treaty, fit to be made by two great friendly nations, and was designed to and did put all the controversies then existing upon a course of peaceful settlement honorable to both parties.

The first eleven articles relate alone to the Alabama claims. These have been fully executed. Besides settling these claims there were two clauses honorable to both countries and of good example to all nations. One was the expression by Great Britain in a friendly spirit of—

> Regret felt by Her Majesty's Government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports and for the depredations committed by those vessels—

And, second, the three provisions in Article VI defining the duties of neutral governments to a friendly nation in war with another. These rules embrace the American idea in respect to neutral nations, and have been substantially adopted by other maritime powers.

The next six articles provide for a claims commission to adjudicate and settle mutual claims of citizens of the respective nations against each other. This is an effective form of arbitration, and these articles have been executed.

Article XVIII granted to fishermen of the United States the right to take fish of every kind except shell-fish on the seacoast and shores and in the bays and harbors and creeks of the maritime provinces on the northeastern coast of Canada, without being restricted to any distance from shore, with permission to land upon the shore for the purposes of drying their nets and curing their fish. This clause modifies the fishing rights granted by the treaty of 1818 by allowing our fishermen to fish within the marine league, but it grants them no commercial privi-

lege of entering the port for provisions or supplies and transshipping their catch over the Canadian roads to the United States. This, however, is provided for in Article XXIX, to be hereafter discussed. The nineteenth article grants reciprocal rights to Canadian fishermen on all bays, harbors, and creeks on the seacoast and shores of the United States north of the thirty-ninth parallel of north latitude. These and the two following articles relate exclusively to the fishing rights of the respective nations.

The four following articles relate exclusively to the Halifax Commission, organized to estimate the difference between the concessions to the United States and to Great Britain in respect to the fisheries, and have been fully executed by an award that has always been considered in the United States as excessive and unjust; but the award was made and has been paid.

Article XXVI and several articles following deal with the coasting and transit trade along the rivers and lakes which form the border between the United States and Canada, a distinct subject matter. Article XXVI declares that the river St. Lawrence, running through British territory, shall forever remain free and open to the sea for the purposes of commerce to the citizens of both countries. Article XXVII secures to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in Canada on terms of equality with the inhabitants of the Dominion, and the United States undertakes that English subjects shall enjoy the use of the St. Clair Canal and certain State canals on terms of equality with the inhabitants of the United States, and the navigation of Lake Michigan was to be free and open for the purposes of commerce to English subjects.

The twenty-ninth article relates to goods in transit arriving at ports of the United States destined for Canada, and, reciprocally, that goods from ports in the United States through Canada to the United States should be conveyed in transit without the payment of duties. I shall have occasion to call attention in detail to the provisions of this article.

Articles XXX and XXXI provide for the coasting trade in vessels of both countries reciprocally on and through the Great Lakes and the rivers connecting the same, free of duty. In other words, the coasting trade of the waters on the borders of the two countries was to be open to the vessels of both nations on terms of reciprocity.

The last articles from XXXIV to XLII relate solely to the boundary between the two countries on the northwestern coast. This controversy was referred to the Emperor of Germany, who decided it in favor of the United States. These articles were executed by his decision in our favor.

Thus it will be perceived that this treaty embraces four distinct subjects, each of which was of great importance, but not in any way connected with each other.

First. The settlement of the Alabama and other claims.

Second. The fishery controversies on the northeastern coast.

Third. The coasting and transit trade along the Great Lakes and rivers which formed a large part of the boundary between the two countries, and transshipment of goods in bond to and through either country free of duty.

Fourth. The boundary line on the Pacific.

The first and fourth of these, relating to claims and the boundary on the Pacific, were settled in pursuance of the terms of the treaty. The fishery articles gave rise to irritation and were terminated by the act of March 3, 1883. The articles relating to the transit of goods, pro-

viding for a vast interior commerce and the reciprocal use of the railroads and canals of each country, have been substantially observed by both countries, except as to the transit of fish belonging to American fishermen from Canadian ports to the United States.

The benefits conferred are mutual, and if any other complaints have arisen they have no connection with, relation to, or similitude to the fishery controversies. Why, therefore, blend this dispute about the transshipment of fish at local ports in Nova Scotia with the vast interior commerce of a continent? Why connect a controversy in the waters about the mouth of the St. Lawrence with the commercial relations along a boundary line extending more than 4,000 miles? No good can result from it unless it is desirable to establish non-intercourse between the two countries, and turn the minds of the two peoples from growing relations of friendship and good will to preparations for controversy and war.

When a nation is compelled by a sense of wrong to seek a remedy by retaliation it is bound to apply a remedy suitable to the offense, and not to resort to extreme or unnecessary measures. If it does so it becomes a wrong-doer. The rule is properly stated by the President in the following words:

> There is also an evident propriety as well as an invitation to moral support, found in visiting upon the offending party the same measure or kind of treatment of which we complain, and as far as possible within the same lines.

And yet at once he invokes a measure of retaliation far beyond the range and out of all proportion to the complaint. What we complain of is the denial of the right of American fishing vessels to enter Canadian ports to ship their catch to the American market.

The remedy provided by law is clear, simple, direct, and sufficient, visiting on the offending party the same measure or kind of treatment of which we complain, and there we should rest. They deny our vessels the right to enter their ports; we deny their vessels the right to enter our ports. They deny our right to transship our fish to our market; we deny them the right to bring their fish into our market. We base our right to enter their ports and transship our fish upon precisely the article of the same treaty upon which they send their fish to our market. If our claim is unfounded, then they should not enjoy the privilege they deny to us.

We believe that the right to transfer fish in bond free of duty through either Canada or the United States rests upon the same law as the transit of all other goods. Fish can be and are freely transmitted from any other port or place in the United States to or from Canada, precisely like other goods, wares, and merchandise, but it is claimed that fish caught on the fishing banks by American fishing vessels can not, under the terms of the treaty of 1818, be allowed to enter the Canadian ports in that region except for certain purposes, and that this traffic is not embraced in the twenty-ninth article of the treaty of 1871. It would appear upon the face of the latter treaty that there is no ground whatever for this distinction. By the plain terms of Article XXIX, which supersedes prior laws and treaties, the goods, wares, or merchandise of American citizens arriving at any of the ports of Her Britannic Majesty's possessions in North America and destined for the United States may be entered and conveyed in transit through said possessions without the payment of duties. There is no restriction as to the character of the goods, no exception made as to fish, or as to particular ports, or the character of the vessels, whether fishing vessels or commercial vessels, or as to prior rights. No reserve is made as to the

treaty of 1818, and this right was enjoyed by our fishing vessels until 1886. The transit of fish stands on precisely the same basis as the transit of wheat, potatoes, or merchandise.

If the right to transship fish does not exist it is because Article XXIX is not in force. It therefore becomes important to determine whether this article has been in any way changed, qualified, or terminated by the notice given to terminate the articles of the Washington treaty relating to the fisheries by the joint resolution approved March 3, 1883. This resolution declares:

That in the judgment of Congress the provisions of articles numbered XVIII to XXV, inclusive, and of Article XXX of the treaty between the United States and Her Britannic Majesty, * * * ought to be determinated at the earliest possible time, and be no longer in force; and to this end the President be, and he hereby is, directed to give notice to the Government of Her Britannic Majesty that the provisions of each and every of the articles aforesaid will terminate and be of no force on the expiration of two years next after the time of giving such notice.

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SEC. 3. That on and after the expiration of the two years' time required by said treaty, each and every of said articles shall be deemed and held to have expired and be of no force and effect.

Due notice was given by the President of the termination of the articles named, and an act of Congress prescribed the mode of carrying it into effect.

Thus, by the plain terms of the treaty and in pursuance of a right reserved in the treaty, the fishery articles have been terminated, and by the common consent of both parties the fishing rights of the United States rest upon the treaty of 1818; but this does not affect any other portion of the treaty. This leaves the treaty of Washington, so far as it respects the navigation of the St. Lawrence and the Great Lakes and the rivers that connect them, and the shipment of goods in transit under Article XXIX in full force.

The President admits the force of this position, but contends that, as the result of the termination of the fishery articles, Article XXIX has also been terminated. He, in his recent message, for the first time takes that position. He says:

There need be no hesitation in suspending these laws, arising from the supposition that their continuation is secured by treaty obligations, for it seems quite plain that Article XXIX of the treaty of 1871, which was the only article incorporating such laws, terminated the 1st day of July, 1885.

He supports this by a narrow and technical construction of Article XXXIII. It is not pretended that either country has taken any direct measure to terminate Article XXIX, but, as stated, it is a mere constructive repeal, for Article XXIX is not mentioned in the joint resolution of March 3, 1883, terminating the fishery articles. The Senator from Mississippi [Mr. GEORGE] supports the President by a subtle argument, plausible upon its face but not satisfactory.

It is sufficient to say that all the contracting parties to this treaty have treated this article as in full force. It is a reciprocal arrangement upon a distinct subject-matter, beneficial to both parties, and of which no complaint has been made, either as to its fairness or its continuance. A repeal by construction is not favored in law. Since the termination of the fishery articles the great commerce conducted under the provision of Article XXIX has been continued and is annually increasing. When appealed to, Great Britain insisted it was in force. If violated at all it has been by the refusal of Canada to allow the transshipment of fish from American vessels in the ports on the northeastern coast, from Nova Scotia through the State of Maine to Boston

and other points. But this grievance could be amply remedied under the act of March, 1887, by forbidding the entry of fish from Canada into the United States, or by forbidding Canadian vessels from entering the ports of the United States.

We are told by the President that—

> In the year 1886 notice was received by the representatives of our Government that our fishermen would no longer be allowed to ship their fish in bond and free of duty through Canadian territory to this country; and ever since that time such shipment has been denied.

If this be so it is another reason why the President should have at once responded by a refusal to allow fish to be brought through Canadian territory to our country or the entry of Canadian vessels into our ports. This would be a plain, direct, and prompt remedy which the President, though armed with full power, has refused to exercise. To make this injustice by the Canadian authorities the ground for arresting the transit of goods between the two countries along the line of the frontier would be to inflict a vastly greater injury on our own people as well as upon the Canadians, to redress a local grievance for which he has an ample local remedy. It is retaliation against ourselves.

It was said in debate that President Grant in his message of December 5, 1870, recommended the identical measure of retaliation now recommended by President Cleveland. This is easily answered by the very different state of our relations with Great Britain then and now. All the many causes of complaint subsequently settled by the treaty of Washington were then pending and flagrant. But a better answer is that in spite of the many causes of complaint then existing, Congress refused to General Grant the powers he asked for and left him to negotiate as a better remedy. No party then proposed to comply with his request. No Democrat would then confer upon him such powers. Shall we now when our causes of complaint are infinitely less and have been localized give to President Cleveland powers we refused to President Grant?

It has been said in debate that the President has already the power he asks for, and sections 3005 and 3006 of the Revised Statutes have been quoted to sustain this view. I do not concur in this, but agree with the Senator from Mississippi [Mr. GEORGE] that no such power is conferred by these sections. It can not be based upon the power granted by section 3005 to the Secretary of the Treasury to prescribe rules and regulations. This is merely directory to provide a proper mode for executing the law, but the law itself confers upon the owners of the merchandise the right to carry their goods through the United States free of duty, and that right can not be taken away by the regulations of the Secretary or by his failure to make such regulations. Nor does the authority conferred upon the Secretary of the Treasury by section 3006 to make rules, regulations, and conditions, limit or control the authority to import merchandise in bond or duty paid, to be transported from one port of the United States to another over neighboring territory.

The regulations must be in harmony with and not defeat the object of the law. Nor does it follow that powers given to the Secretary of the Treasury are conferred upon the President. A multitude of examples of this kind can be given where the head of a Department is clothed with independent power denied to the President. Nor has the President any dispensing power. He can not take advantage of the non-fulfillment of a treaty by a foreign nation. Congress alone can abrogate a treaty if it is violated by the other party. It may abro-

gate the treaty in whole or in part, but the President has no such power. If Great Britain has violated the twenty-ninth article of the treaty of Washington, or has failed in any respect to perform its obligations, as I believe it has in refusing the entry and transshipment of our fish, the Congress alone may prescribe proper remedies, either by abrogation of a part or the whole of a treaty or by retaliation in kind. In this case Congress has furnished the remedy, ample, complete, and specific. It has not undertaken to abrogate Article XXIX, but all the parties to the treaty have treated it as subsisting, and, according to my construction, it is still in full force and effect, and neither the interests of our people nor public policy demand that it should be suspended or evaded, but should be maintained and enforced.

Unfortunately the President is committed against this policy; and disappointed in the rejection of the late treaty and dissatisfied with the attitude of his administration on a question involving the rights of a large number of our people, he now, in his recent message, seeks to change the issue, sets up new grievances, asks for new powers to fight another diplomatic battle on another line. He says in his message of the 29th of August that the Dominion of Canada has not complied with Article XXVII of the treaty of Washington in allowing American vessels to use the Welland Canal on the same terms and conditions granted to Canadian vessels. This is quite a different subject-matter than Article XXIX. Article XXVII provides that—

ARTICLE XXVII.

The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the high contracting parties on terms of equality with the inhabitants of the United States.

Though Great Britain only engaged to urge Canada to secure citizens of the United States the use of the Welland and other canals on terms of equality with citizens of Canada, yet, considering their relations to each other, this constitutes a substantial obligation on the part of Great Britain to secure to citizens of the United States the use of the canals on the same terms granted to citizens of Canada. It is now alleged that such discrimination is made against the United States, but this is denied by the Dominion Government. It appears, however, that as early as the 28th of March, 1887, by an order of council, that Government did levy a special reduced rate of 2 cents a ton, merely nominal, on wheat, corn, pease, barley, and rye, all being food products, carried through the Welland Canal, when shipped to Montreal or ports east of that, while the usual rate when shipped to other ports is 20 cents a ton. This does not discriminate against American vessels, for they may carry these articles to Montreal; but it does discriminate against American ports, and is certainly a violation of the spirit of the treaty if not its letter. This discrimination has continued ever since. It appears also from the report of the Commissioner of Navigation that similar orders of council were in operation since July 4, 1885, during nearly the whole period of this Administration.

A memorandum taken from the Canadian report of canal statistics for 1886 throws some light upon the subject of tolls:

"G. C., 21st April, 1886.—On a memorandum dated 20th April, 1886, from the minister of railways and canals, submitting that, by an order in council dated

4th July, 1885, the Dominion canal tolls on certain food products shipped from Montreal or any other Canadian port east of Montreal were reduced, for the then current season of navigation only, to 2 cents per ton.

"O. C. 14t June, 1886.—Notice is hereby given that by order of his excellency the governor-general in council, dated the 14th June, 1886, the order in council, dated 21st April last, fixing at 2 cents per ton the Dominion canal tolls on certain food products, shall apply to the Welland and St. Lawrence Canals only."

Now, the first inquiry I have to make is if this discrimination is so grievous as to demand the extreme remedy of retaliation, why was it not sooner brought to our attention? The first we heard of such complaint were statements made by a Senator on this floor during the present session and by a bill introduced in the House of Representatives. If there was just ground for this complaint it was the duty of the President to inform Congress of it, and to call upon Congress without respect to the fishery controversy for power to enable him to meet this breach of the treaty. It is not mentioned by the Secretary of the Treasury in his annual report. I need not say it was not mentioned by the President in his annual message. It is said it was mentioned in the report of the Commissioner of Navigation in December last, a document not likely to attract attention, and in a letter from the Secretary of the Treasury to the Committee on Foreign Affairs of the House, January 23, 1888. It does not seem to have been called to the attention of the distinguished negotiators of the late fishery treaty. It was not even called to the attention of Mr. Bayard, our Secretary of State, until the 10th of July, 1888, and then in a perfunctory kind of a way. He slept on this grievance until the 21st of July, when he addressed a note to the British minister at his summer retreat; even then did not treat it as a complaint against Great Britain, but closed his brief note with this request:

I will thank you to bring this matter to the attention of the Canadian Government.

No doubt in due time we will hear further from the Canadian Government through Mr. West and Mr. Bayard.

And yet this is the subject-matter of the message of the President of August 29, 1888, which has caused so much excitement in those countries, and even the facts which I state were not known to us until the 12th of this month of September—six days since—when they were communicated by the message of the President in response to a resolution of the Senate. And yet with the message of the President there came to the House by some grape-vine line the bill now before us. It was hurried through in hot haste to heal the wounded honor of our country, which had, according to the President, suffered almost unconsciously a grievous wrong for more than three years!

Mr. President, I have in my time seen many panics. I have seen the Senate and the House rush in hot haste through the forms of legislation under sudden excitement many foolish measures. I have seen mobs not so respectable commit violence and crimes against law and justice. I have read of panics in battle when the bravest of troops fled in a fright from imaginary dangers, but I have never known one so groundless as this. For us to set up these old orders of council of the Canadian Government now, here in the midst of the fishery controversy, as a ground for retaliation would be a departure from all the usages of friendly intercourse between friendly nations. It would be to seek a quarrel on a new pretext to fortify an old controversy. It would be neither manly, dignified, nor just. It is an afterthought. If not, why did not the President advise us before of the discrimina-

tion against us in the use of the Welland Canal? Why did he, in June, 1887, confer bonding privileges on the Canadian Pacific Railroad? Why did he not make a firm remonstrance against such discriminations? Why did he not give notice that if continued, like discriminations would be made on the St. Clair and Sault de Ste. Marie Canals? Why, after giving notice to the British minister, does he not await an answer? Can it be that he never heard of this grievance until now, and seized upon it to cover his refusal to obey the law fixing the measure and extent of retaliation for injuries done to the fishing rights? I can not resist the conclusion that this grievance, neglected or overlooked by the President, is now lugged into the fishery controversy to divert attention from the failure to enforce the retaliation authorized by law.

And yet, Mr. President, I believe the discrimination made is a substantial and, as the debate in the House of Representatives shows, an injurious infraction by the Canadian authorities of the treaty of Washington, and calls for a firm remonstrance by the President to Great Britain, and, if not heeded, an act of Congress authorizing a toll on vessels passing through the St. Clair Flats or Sault de Ste. Marie Canals to Canadian ports, or in the last resort authorizing specific retaliation. Upon the showing now made I will vote for such an act or acts after a fair notice and proper hearing. It may be, and has been contended, that the joint resolution of March 3, 1887, is broad enough to justify such retaliation, but if there is any doubt of it full and specific authority should be conferred upon the President to retaliate in kind I can not doubt that Canada will on proper representation remove this cause of complaint. It is not to be supposed that any such discrimination would be made except by inadvertence, or continued after the attention of the Canadian authorities had been called to it.

We have no right to complain that Canada levies tolls on vessels passing through her canals, though we levy none on American canals, for that right is expressly recognized by the Washington treaty. All that we can ask is that no higher or other tolls are levied on American vessels than on Canadian vessels, that no discriminations are made under cover of drawbacks or bounties in favor of Canadian ports against American ports. If we object to tolls we should do what ought to have been done forty years ago, and for which I voted thirty years ago, build a canal around the Falls of Niagara on American soil.

I conclude, therefore, that it is not wise at the present time to give to the President the additional powers of retaliation he asks for as the case now stands. It is for Congress, the representatives of the States and the people, to judge of the necessity and extent of powers of retaliation demanded by national honor to secure national rights, and not for the President. If the object is to secure our fishery rights, the powers already granted are full, complete, and adequate. If it is to prevent discriminations against American vessels in Canadian canals, the foundation has not been laid by negotiation, remonstrance, and refusal to justify acts of retaliation. When that is done it will be time enough to provide such measures, and the patriotism of Congress may be relied upon, whatever party is in power, to assert and maintain the rights of our people.

That there is no haste about this matter is shown from the very cool and placid manner in which Sir John Macdonald treats the whole question. The Welland Canal will be closed for the season in sixty days, before we shall receive an answer from the Canadian Government or

from Mr. West, and then we shall have a long season intervening. Sir John Macdonald is reported in the newspapers to have said yesterday:

> The policy of the Canadian Government will be to await developments in the United States. By this I mean that the only question from which trouble can arise relates to the fishing. The fishing season has just closed, and it will not open again until May. In other words, it will be fully eight months before the United States will have any chance to bring up the question again.

That was not the view the House of Representatives seem to have taken.

And now, Mr. President, taking a broader view of this question, I submit if the time has not come when the people of the United States and Canada should take a broader view of their relations to each other than has heretofore seemed practicable. Our whole history since the conquest of Canada by Great Britain in 1763 has been a continuous warning that we can not be at peace with each other except by political as well as commercial union. The fate of Canada should have followed the fortunes of the colonies in the American Revolution. It would have been better for all, for the mother country as well, if all this continent north of Mexico had participated in the formation and shared in common the blessings and prosperity of the American Union.

So evidently our fathers thought, for among the earliest military movements by the Continental Congress was the expedition for the occupation of Canada, and the capture of the British forces in Montreal and Quebec. The story of the failure of the expedition, the heroism of Arnold and Burr, the death of Montgomery, and the fearful sufferings borne by the Continental forces in the march and retreat is familiar to every student of American history. The native population of Canada were then friendly to our cause, and hundreds of them as refugees followed our retiring forces and shared in the subsequent dangers and triumphs of the war. It was the earnest desire of Franklin, Adams, and Jay at the treaty of peace to secure the consent of Great Britain to allow Canada to form a part of the United States, and at one time it appeared possible but for the influence of France and Spain, then the acknowledged sovereigns of large parts of the territory now included within the United States. The present status of Canada grew out of the activities and acquisitions of European powers after the discovery of this continent. Spain, France, and England especially desired to acquire political jurisdiction over this newly discovered country.

Without going into the details so familiar to the Senate, it is sufficient to say that Spain held Florida, France held all west of the Mississippi, Mexico held Texas west to the Pacific, and England held Canada. The United States held, subject to the Indian title, only the region between the Mississippi and the Atlantic. The statesmen of this Government early discerned the fact that it was impossible that Spain, France, and Mexico should hold the territory then held by them without serious detriment to the interests and prosperity of the United States, and without the danger that was always present of conflicts with the European powers maintaining governments in contiguous territory. It was a wise policy and a necessity to acquire these vast regions and add them to this country. They were acquired and are now held.

Precisely the same considerations apply to Canada, with greater force. The commercial conditions have vastly changed within twenty-five years. Railroads have been built across the continent in our own country and in Canada. The seaboard is of such a character and its geo-

graphical situation is such on both oceans that perfect freedom as to transportation is absolutely essential, not only to the prosperity of the two countries, but to the entire commerce of the world; and as far as the interests of the two people are concerned, they are divided by a mere imaginary line. They live next-door neighbors to each other, and there should be a perfect freedom of intercourse between them.

A denial of that intercourse, or the withholding of it from them, rests simply and wholly upon the accident that a European power one hundred years ago was able to hold that territory against us; but her interest has practically passed away and Canada has become an independent government to all intents and purposes, as much so as Texas was after she separated herself from Mexico. So that all the considerations that entered into the acquisition of Florida, Louisiana, and the Pacific coast and Texas apply to Canada, greatly strengthened by the changed condition of commercial relations and matters of transportation. These intensify not only the propriety, but the absolute necessity of both a commercial and a political union between Canada and the United States.

The immense extent of our boundary line invites, has produced, and will more and more produce, as both countries grow, innumerable causes of controversy that would not exist if we were bound by the tie of a common government. Nearly all of the troublesome questions that have been the subject of negotiations with Great Britain have related to Canada. One fruitless war led to the invasion of Canada. More than once we have been on the verge of war with Great Britain as to the boundary line with Canada. Our present controversies as to the fisheries, canals, commercial and trade relations are with Canada. The similarity of our language and institutions makes intercourse easy and controversies frequent. Our proximity is more dangerous than if we were of different races, speaking different languages, and separated by old traditions and usages. We are essentially one people; but since the autonomy of the Dominion of Canada, composed of many provinces, we are two rival federal republics between whom union is the only safety, can we not therefore, as the elder and stronger republic, adopt a line of public policy that will peacefully and happily blend the two in one harmonious whole. Canada is now stronger, more populous and wealthier than the United States was when the Constitution was formed. In one hundred years our country has been increased fifteen fold in population, five-fold in extent, and twenty fold in wealth, productions, and resources. We may anticipate for Canada the same proportionate growth in population and wealth, but neither can grow in extent, for the continent is shared between us.

Shall each country protect itself from the other by lines of fortifications, dotted by custom-houses, carefully watched by smugglers, and expend their resources for armies and vessels of war? Shall we duplicate canals on our borders at every natural obstacle to commerce because we can not agree for their common use? Shall we, like unfriendly neighbors, build a mad-lane between us, because we can not agree to join our fences? One or the other of these lines of public policy will very soon have to be adopted, or, like the ancient English and Scotch, we will be in a state of continual controversy or warfare with each other. I prefer a kind and generous policy to Canada rather than one of retaliation and force. Nor will mere commercial arrangements, in their nature temporary, like the reciprocity treaty of 1854 and of 1871, liable to be set aside by the shifting exigencies of the political

situation, meet or solve the problem we have before us. They only tend to emphasise our separation.

The way to union with Canada is not by hostile legislation; not by acts of retaliation, but by friendly overtures. This union is one of the events that must inevitably come in the future; it will come by the logic of the situation, and no politician or combination of politicians can prevent it. The true policy of this Government is to tender freedom in trade and intercourse, and to make this tender in such a fraternal way that it shall be an overture to the Canadian people to become a part of this Republic.

The admission of Canada into the Union divided into states and territories upon the basis of our Federal system would be of untold advantage to both countries. Four or five States could be admitted, each with an already established autonomy, defined boundaries, and a sufficient population, and the remainder divided into territories would have the benefit of local government and become the scene of a migration only exceeded by that of the Northwest Territory.

The natural advantages of the union would be in closing forever all controversies inseparable from a long boundary line, in giving the broadest free trade in the productions of a continent, in combining the interests and pride and achievements of a kindred population fairly represented in the Congress of the United States, in increasing the power and influence of republican institutions among the nations of the world, and in giving additional security against the aggression of European powers. This, as I have said, is no untrodden experiment in the history of American progress. The thirteen old colonies have absorbed under their flag and jurisdiction successive regions of vast extent and resources, some of which now exceed in wealth and population many times that of the old thirteen States at the beginning of this century. The settlement of the Northwest Territory, the Louisiana and Florida purchases, the annexation of Texas, and the acquisition from Mexico are examples of the adaptation of our form of government for expansion, to absorb and unite, to enrich and build up, to ingraft in our body-politic adjacent countries, and while strengthening the older States confer prosperity and development to the new States admitted into this brotherhood of republican States.

The Dominion of Canada is so situated that she would reap more advantages from this connection than any previous acquisition. Our great market will be at once open to her vast undeveloped natural resources. Her fisheries would find an undisputed and untaxed market. Her extensive forests, far greater than any now known, will be doubled in present value. Her wheat, barley, and other cereals will enter into our consumption or add to the store of food to be conveyed to other markets by modes of transportation always open, free of custom-house officers or tolls at all seasons of the year. The tide of emigration that has steadily passed through her borders into our more favored climate will turn northward to the forests of Columbia, to the vast plains of Manitoba and adjacent provinces, to the silver, gold, copper, iron, and nickel mines north of Lake Superior and to the still unsettled agricultural regions in the older provinces.

I know of no portion of the population of Canada whose interests would be injuriously affected by union with the United States except the favored few who enjoy titles or who, like their senators, hold offices for life; but even these will find compensation for their loss, but the public gain, by a broader sphere of ambition and influence. For the mass of their people the change would be imperceptible, while its bene-

fits would be undeniably apparent. They now, under the British North American act of 1867, form a voluntary union into one legislative confederation. Under our system they would have this and greater security for perpetual union, growth, wealth, and strength, with all their local powers, autonomy, and government.

Nor is it likely that the British Government would object to the free and voluntary action of a dependency upon which it has already conferred substantially independent power; for the parent government will find in the extended union an enlarged market for its productions and will be relieved from the embarrassments under which they now labor of guarding and protecting interests of which they have no part. In any event, the independent action of two peoples, bound by so many ties of kinship, neighborhood, and interest could not long be denied their union under a common government.

And the advantages of this union will be fully shared by the people of the United States. Our manufacturing industries, now greatly developed, will find new markets in the Dominion of Canada; machinery, clothing, supplies will be needed with new developments. Has it not always been so? Has not the prosperity of the older States kept pace constantly with the march of prosperity westward until the shores of the Pacific have been reached? Every new clearing in the forest, every new opening in the prairie, every new ranch on the plains, every new mine in the mountains has contributed to the employment and wealth of the East; and so will it be when the Dominion of Canada is open for new explorers unchecked by rival lines of sovereignty and jurisdiction. The ports of the East will be open to their fisheries, the great rivers and lakes will be unvexed by rival interests and regulations, the canals of both countries will be free to all, and the common treasure of a greater country than now will enable us to overcome natural obstructions to our commerce.

And may we not hope that, with a broader area, the unhappy sectionalism of the past between the North and the South may be dissipated by new questions that will arise, by a more intense patriotism invoked by the expansion of our institutions? It has always been so in the past. The North watched with jealousy the annexation of Texas; the South resisted to the utmost the extension of free institutions over California, and sought to break up the Union when the North obtained temporary ascendency. Both sections found their greatest good in the defeat of their cherished wishes. Will not the South see in the extension of our domain the triumph of the principles their statesmen did so much to establish? Will it not invoke in the North a genuine sympathy for them in solving the grave problem they have of dealing with a rapidly-growing race in their midst, distinct and different from their own? Will it not make easier the blending and mingling of the different races and tribes and types of men that form our population?

I see in the success of this policy much that is good and nothing that is harmful to any part of our great country. Nor are there any difficulties that should deter us for a moment. The institutions of Canada are substantially like our own. The population is in the main of the same stock. Our proximity is such that while separated we may be enemies, if united we will be friends. The debt of Canada is no impediment, for our resources are such that it can be assumed without being a burden. It can only be accomplished by the free and hearty assent of both peoples. Any force used will defeat the object we have in view. It can only be approached by gradual measures that invite and tend to good will and intercourse. It can not be promoted by con-

troversy or retaliation. These measures lead to others, and end in war. There are restless spirits in every generation that seek to rise by the misfortunes of their country. There are narrow politicians that seek by tricks and popular appeals to gain an advantage; but in the end they fall by their own devices.

True statesmanship consists in an earnest effort by honest means to promote the public good. No greater good can be accomplished than by a wise and peaceful policy to unite Canada and the United States under one common government, but carefully preserving each to state its local authority and autonomy. This controlling principle of blending local and national authority—many in one—was the discovery of our fathers, and has guided the American people thus far in safety and honor, and I believe can be and ought to be extended to the people of Canada. With a firm conviction that this consummation, most devoutly to be wished, is within the womb of destiny, and believing that it is our duty to hasten its coming, I am not willing for one to vote for any measure not demanded by national honor, that will tend to postpone the good time coming when the American flag will be the signal and sign of the Union of all the English speaking people of the continent from the Rio Grande to the Arctic Ocean.

I ask that the resolution be referred to the Committee on Foreign Relations.

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